IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12601 of 2005

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SOLANKI SIDHDHARAJSINH LALABHAI - Petitioner(s)

Versus

DISTRICT PRIMARY EDUCATION OFFICER - VADODARA & 1 - Respondent(s)

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Appearance :

MR KB PUJARA for Petitioner(s) : 1,
MR HS MUNSHAW for Respondent(s) : 1,
MS PB SHETH, AGP for Respondent(s) : 2,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 14/10/2005

ORAL JUDGMENT

Heard the learned advocates.

RULE. Learned advocates Mr.Munshaw and Ms.Sheth

waive service of rule for the concerned respondent. With the consent of the learned advocates the matter is heard and disposed of today.

Feeling aggrieved by his non-selection for appointment as Vidya Sahayak by the District Primary Education Committee, Vadodara (hereinafter referred to as, **"the Committee"**), the petitioner has preferred the present petition under Article 226 of the Constitution of India.

Pursuant to the advertisement published on 17th July, 2004 the petitioner had applied for appointment as Vidya Sahayak under the Committee. In support of his application the petitioner had produced relevant testimonials including the certificates issued by the Sports Authority of India in connection with the petitioner's participation in the sports tournaments at national level. Considering his total merit the petitioner secured 78.01 marks. The petitioner was, however, not offered the appointment as the Committee was of the opinion that the testimonials produced by the petitioner in support of his Athletic achievement were not sufficient i.e. the petitioner had not produced the

certificate issued by the concerned Association at the State level.

In answer to this petition the Committee has submitted that considering the Athletic achievement of the petitioner and the certificates produced by the petitioner the petitioner deserved the additional marks for his Athletic achievements. Considering such marks the petitioner has secured 78.4 marks which is sufficient to earn him an appointment as Vidya Sahayak.

As to the additional marks to be given for Athletic achievement the State Government has issued a Resolution on 25th February, 1980. Under the said Resolution it is provided that such marks shall be given on production of the certificates issued by the concerned authority. The concerned authority mentioned in the annexure to the said Resolution is either the Secretary of the National Association or the Secretary of the State Association. Admittedly, neither the Sports Authority of India nor the Gujarat State Sports Authority can be said to be the Association referred to in the aforesaid Resolution. Nevertheless, I am of the opinion that as the genuineness of the certificate produced by the petitioner is not

doubted, the same having been issued by not less than the Sports Authority of India the same may be accepted by the Committee.

Under the aforesaid circumstances the petition is allowed to the extent that the respondent – District Primary Education Committee shall reconsider the petitioner's application considering the Athletic achievements of the petitioner. If need be, the District Primary Education Committee may seek clarification from the State Government. The aforesaid exercise shall be completed within six weeks from today. Rule is made absolute in the above terms. The parties shall bear their own cost. The Registry shall send the writ forthwith.

In the event the petitioner is appointed as Vidya Sahayak, the District Primary Education Committee shall also consider giving due seniority to the petitioner from the date the other applicants were selected and appointed.

(Ms. R.M.Doshit, J.)

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